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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,525	11/21/2001	Alan F. Savicki	492.172	6341
27019	7590	10/20/2004	EXAMINER	
THE CLOROX COMPANY 1221 BROADWAY PO BOX 2351 OAKLAND, CA 94623			BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/979,525

Applicant(s)

SAVICKI, ALAN F.

Examiner

James R. Brittain

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 68-151 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 68-151 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 68-86, 88-125, 127-146, and 148-151 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington Jr. et al. (US 5161286) in view of Hattori (US 3990130).

Herrington Jr. et al. (figure 7) teaches a closure device comprising: a first fastening strip; a second fastening strip; a slider 32 adapted to be slidably disposed on the fastening strips and facilitating the occlusion of the fastening strips when moved towards a first end thereof and facilitating the deocclusion of the fastening strips when moved towards a second end thereof, the fastening strips and the slider having a longitudinal X axis and a transverse Y axis, the transverse Y axis being perpendicular to the longitudinal X axis, the fastening strips and the slider having a vertical Z axis, the vertical Z axis being perpendicular to the longitudinal X axis, the vertical Z axis being perpendicular to the transverse Y axis, a first end stop 31 at the first end, the slider comprising a housing having four jaws defined by the opposite downwardly extending thickened portions of the legs 21c, 22c that define a slot between them at each end of the slider and the right-hand face defining the portion of the recess or slot 32a for engaging the first end stop projection 31a when the slider is moved to the first end of the fastening strips and the first jaw thereby preventing removal of the slider from the first end of the fastening strips in the

Art Unit: 3677

longitudinal X axis. The end face of the slider engages the end stop at each end of the bag so as to keep the slider on the bag. The width of the end stop is greater than the spacing of the thickened portions of the legs of the slider that are considered jaws. The difference is that the interconnection between end stop and slider occurs below the top of the fastening strips.

However, Hattori (figures 2, 6) teaches end stop structure 27 that locks a slider 11 at the end of its travel via the jaws 13, 22 extending from the slider above the fastening strips to interengage with the end stop. The device can be used upon a container if so desired. This structure helps to maintain an airtight seal, a beneficial result. As it would be advantageous to improve the seal of the fastener of Herrington, Jr. et al., it would have been obvious to modify the fastener of Herrington Jr. et al. so that the interlock between the slider and end stop is above the fastening strips as this would help improve the sealing characteristics of the fastener as taught by Hattori. Claims 89, 107 and 128 are drawn to a slider, a container and method of using a closure device of similar scope to that of claim 1 and is rejected for the same reasons as claim 1. As to claim 149, Herrington Jr. et al. (figure 7) teaches a closure device comprising: a first fastening strip; a second fastening strip; a slider 32 adapted to be slidably disposed on the fastening strips and facilitating the occlusion of the fastening strips when moved towards a first end thereof and facilitating the deocclusion of the fastening strips when moved towards a second end thereof, the fastening strips and the slider having a longitudinal X axis and a transverse Y axis, the transverse Y axis being perpendicular to the longitudinal X axis, the fastening strips and the slider having a vertical Z axis, the vertical Z axis being perpendicular to the longitudinal X axis, the vertical Z axis being perpendicular to the transverse Y axis, a first end stop 31 at the first end, the slider comprising a housing having four jaws defined by the opposite downwardly extending thickened

Art Unit: 3677

portions of the legs 21c, 22c that define a slot between them at each end of the slider and the right-hand face defining the portion of the recess or slot 32a for engaging the first end stop projection 31a when the slider is moved to the first end of the fastening strips and the first jaw thereby preventing removal of the slider from the first end of the fastening strips in the longitudinal X axis. The end face of the slider engages the end stop at each end of the bag so as to keep the slider on the bag. The width of the end stop is greater than the spacing of the thickened portions of the legs of the slider that are considered jaws. The difference is that the interconnection between end stop and slider occurs below the top of the fastening strips. However, Hattori (figures 2, 6) teaches end stop structure 27 that locks a slider 11 at the end of its travel via the jaws 13, 22 extending from the slider above the fastening strips to interengage with the end stop. The device can be used upon a container if so desired. This structure helps to maintain an airtight seal, a beneficial result.

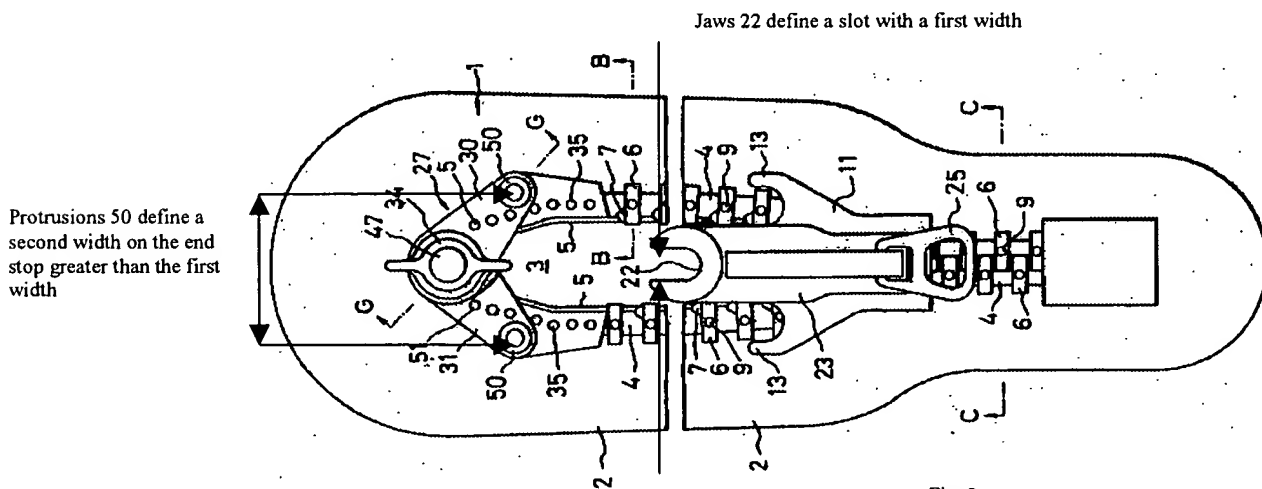
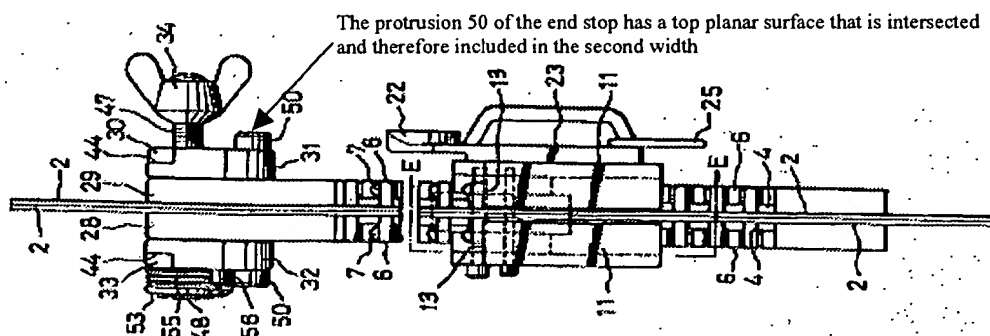


Fig. 2

The jaws 22 engage the screw 47 to stop the slider.



Art Unit: 3677

Additionally, Hattori suggests the slider having jaws defining a slot with a first width and the end stop having a second width with the second width greater than the first width so as to insure the slider stays on the fastener as shown above. As it would be advantageous to improve the seal of the fastener of Herrington, Jr. et al., it would have been obvious to modify the fastener of Herrington Jr. et al. so that the interlock between the slider and end stop is above the fastening strips as this would help improve the sealing characteristics of the fastener as taught by Hattori.

Claims 87, 126, and 147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington Jr. et al. (US 5161286) in view of Hattori (US 3990130) as applied to claims 68, 107, and 128 above, and further in view of Stohlmeier et al. (US 5871281).

Further modification of the fastener of Herrington et al. so that the interengaging features are of the arrowhead type in view of Stohlmeier et al. (figure 4) teaching that it is well known to utilize the arrowhead type of interengaging features 18H so as to better secure the closure.

Response to Arguments

Applicant's arguments filed June 17, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant argues that since Herrington Jr. et al. locates the recesses 32 at the

Art Unit: 3677

bottom of the wings of the slider not above the fastener tapes and that the slider lock of Hattori is positioned above the fastener tapes that there would be no suggestion to modify the closure of Herrington Jr. et al. to have such structure. This is not persuasive because Hattori utilizes the slider lock so as to enhance the airtightness of the connection between the slider and the fastener tape. The observation that the fastener tape has its two portions lying in a plane rather than being parallel as taught by Herrington Jr. et al. does not eliminate the teaching of the reference as to the locking features that extend above the tape.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

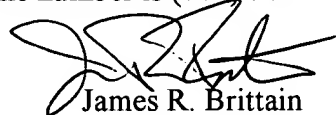
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (703) 308-2222. The examiner can normally be reached on M-F 5:30-2:00.

Art Unit: 3677

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



James R. Brittain
Primary Examiner
Art Unit 3677

JRB